

**9 VAC 25-71-10. Definitions.**

For the purposes of this chapter, the following definitions apply:

"Act" means the Clean Water Act (USC Title 33, Chapter 26, §1251 et seq.) and standards and regulations promulgated thereunder;

"Board " means the State Water Control Board;

"Discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping;

"Discharges incidental to the normal operation of a vessel" means discharges of graywater (galley, bath and shower water), bilge water, cooling water, weather deck runoff, ballast water, oil water separator effluent, and any other discharge from a properly functioning marine engine or propulsion system, shipboard maneuvering system, crew habitability system, or installed major equipment, such as an aircraft carrier elevator or catapult, or from a protective, preservative, or adsorptive application to the hull of a vessel, or a discharge in connection with the testing, maintenance, and repair of a system described above whenever the vessel is waterborne. It does not include a discharge of rubbish, trash, garbage, other such material discharged overboard or pollution;

"Industrial Wastes" means liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of natural resources;

"Marine sanitation device" means any equipment installed on a boat or vessel and which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage;

"Other Waste" means decayed wood, sawdust, shavings, bark, lime, garbage, refuse, ashes, offal, tar, oil, chemicals, and all other substances, except industrial waste and sewage, which may cause pollution in any state waters;

"Pollution" means such alteration of the physical, chemical or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses; provided that (i) an alteration of the physical, chemical, or biological property of state waters, or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution" for the terms and purposes of this chapter;

"Pump-out facility" means any device, equipment or method of removing sewage from a marine sanitation device. Also it shall include any holding tanks either portable, movable or permanently installed, and any sewage treatment method or disposable equipment used to treat, or ultimately dispose of, sewage removed from boats;

"Sewage" means human body wastes, the wastes from toilets and other receptacles intended to receive or retain human wastes, and liquid-carried human wastes together with such industrial wastes and other liquid as may be present;

"State" means the Commonwealth of Virginia;

"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth of Virginia or within its jurisdiction, including wetlands;

"Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used on the waters of the state, including boats and houseboats regardless of size, means of propulsion or place of registry;

**9 VAC 25-71-20. Purpose.**

This chapter implements the authority of §62.1-44.33 of the Code of Virginia to control discharge of sewage and other wastes from both documented and undocumented boats and vessels on all navigable and nonnavigable waters within this Commonwealth.

**9 VAC 25-71-30. Federal Regulations.**

The following Federal Regulations are hereby incorporated by reference:

Marine Sanitation Device Standard, 40 CFR Part 140 (2002)

**9 VAC 25-71-40. Penalty.**

Section 62.1-44.33 provides penalties for violations of these regulations.

**9 VAC 25-71-50. Miscellaneous Waste Discharges.**

No person shall discharge other wastes from any vessel on any navigable or nonnavigable waters into state waters. This provision shall not prohibit discharges incidental to the normal operation of a vessel and shall not be applicable to the harvesting of seafood and fisheries products.

**9 VAC 25-71-60. Sewage Discharges**

Vessels with installed toilets and marine sanitation devices shall be in compliance with federal regulations at 40 CFR Part 140 (2002), which set standards for sewage discharges from marine sanitation devices. Vessels without installed toilets or without installed marine sanitation devices shall not directly or indirectly discharge sewage into state waters. Sewage and other wastes from self-contained portable toilets or other containment devices shall be pumped out at pump-out facilities or carried ashore for treatment in facilities approved by the Virginia Department of Health.

**9 VAC 25-71-70. No Discharge Zones.**

All discharge of sewage, whether treated or not, and other wastes from all vessels into designated No Discharge Zones is prohibited. A listing of designated No Discharge Zones within the state appears at 9 VAC 25-71-80.

**9 VAC 25-71-80. Listing of Designated No Discharge Zones in the Commonwealth of Virginia.**

The following are designated No Discharge Zones:

A. A No Discharge Zone is hereby established for Smith Mountain Lake in the counties of Bedford, Franklin and Pittsylvania, Virginia, from Smith Mountain Dam (Gap of Smith Mountain) upstream to the 795.0 foot contour (normal pool elevation) in all tributaries, including waters to above the confluence with Back Creek in the Roanoke River arm, and to the Brooks Mill Bridge (Route 834) on the Blackwater River arm.

## ~~"Regulation 5"~~

### ~~9 VAC 25-70-10 et seq.~~

#### ~~9 VAC 25-70-10. Definitions.~~

~~This regulation is established in accordance with §62.1-44.33 of the Code of Virginia. For the purposes of this chapter, the following definitions apply:~~

~~"The Act" means the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500) and standards and regulations promulgated thereunder.~~

~~"Marine sanitation device" includes any equipment for installation on board a boat or vessel and which is designed to receive, retain, treat, or discharge sewage and any process to treat such sewage.~~

~~"Regularly moored, berthed, or docked" means moored, berthed or docked in or adjacent to shellfish growing waters for 30 or more days in any calendar year.~~

~~"Sewage retention device" means a properly operating holding tank, self-contained toilet, incineration device, or other Coast Guard certified system designed to prevent any discharge or drainage of human excrement or other wastes therefrom into state waters.~~

~~"Shellfish growing waters" means those state waters so designated on the maps entitled "Shellfish Growing Waters Subject to the Regulation No. 5 No-Discharge Standard," dated March 22, 1976 (exhibits 1-6).~~

#### ~~9 VAC 25-70-20. Wood, garbage, petroleum products and chemicals.~~

~~No decayed wood, sawdust, shavings, bark, lime, garbage, refuse, ashes, offal, petroleum products, chemicals, or other substances shall be directly or indirectly cast, placed, thrown, deposited, or discharged from any documented or undocumented boat or vessel into the navigable or nonnavigable waters within this state. However, this provision shall not be construed to prevent the normal operation of marine engines, or necessary pumping of bilge or ballast water pursuant to 9 VAC 25-70-40.~~

#### ~~9 VAC 25-70-30. Liquid waste.~~

~~No liquid or other wastes resulting from any process of industry, manufacture, trade, or business or from the development of any natural resource shall be directly or indirectly discharged from any documented or~~

~~undocumented boat or vessel into the navigable or nonnavigable waters within the state. However, this provision shall not be applicable to the harvesting of seafood and fisheries products by commercial watermen.~~

**~~9 VAC 25-70-40. Bilge or ballast water.~~**

~~No bilge or ballast water containing more than 10 mg/l of petroleum products shall be directly or indirectly discharged from any documented or undocumented boat or vessel into the navigable or nonnavigable waters within this state. However, this provision should not be construed to prevent bilge pumping necessary for the safe operation of the boat or vessel.~~

**~~9 VAC 25-70-50. Excrement.~~**

~~Subject to the provisions of 9 VAC 25-70-60 and 9 VAC 25-70-80 here, no human excrement shall be directly or indirectly discharged from any documented or undocumented boat or vessel into the navigable or nonnavigable waters within the state.~~

**~~9 VAC 25-70-60. Sanitation devices.~~**

~~Every boat or vessel, whether documented or undocumented, equipped with an installed toilet and which is regularly moored, berthed, or docked within the geographic boundaries of those state waters now or hereafter designated as shellfish growing areas shall be equipped with a sewage retention device.~~

~~The foregoing notwithstanding, however, any vessel regularly moored, berthed, or docked within the geographic boundaries of those state waters now or hereafter designated as shellfish growing waters and equipped, on the date of adoption of this regulation, with a marine sanitation device which meets the requirements of §312 of the Act may continue to be equipped with said device so long as the device operates properly.~~

~~Every boat or vessel, whether documented or undocumented, equipped with an installed toilet and which is not regularly moored, berthed, or docked within the geographic boundaries of those state waters now or hereafter designated as shellfish growing waters shall be equipped with a marine sanitation device that meets the requirements of §312 of the Act. In the event such boat or vessel is relocated so that it is regularly moored, berthed, or docked within the geographic boundaries of those state waters now or hereafter designated as shellfish growing waters or if the waters on which such boat or vessel is regularly moored, berthed, or docked are redesignated by the board so as to become shellfish growing waters, such boat or vessel shall be equipped, within a reasonable time not to exceed one year from the date of relocation or the effective date of redesignation, with a sewage retention device.~~



The foregoing notwithstanding, however, those vessels equipped with a marine sanitation device meeting the requirements of §312 of the Act on the date of relocation or the effective date of the redesignation as shellfish growing waters may continue to be equipped with said device so long as the device operates properly.

**~~9 VAC 25-70-70. Disposal of excrement.~~**

~~Human excrement and other wastes from holding tanks and self-contained toilets shall be pumped or carried ashore for treatment in facilities approved by the appropriate state agency or state agencies.~~

**~~9VAC25-70-80. Foreign vessels.~~**

~~In the case of boats and vessels hailing from another state or having foreign registry, and which are not regularly moored, berthed, or docked within the geographic boundaries of those state waters now or hereafter designated as shellfish growing waters, sewage disposal facilities approved by their respective governmental pollution control agency and meeting the requirements of §312 of the Act shall be acceptable.~~

**~~9VAC25-70-90. Application process.~~**

~~Every owner of a boat or vessel, whether documented or undocumented, shall, when so requested in writing by the board, or when making application for the registration of said boat or vessel with the Commonwealth of Virginia, Commission of Game and Inland Fisheries, answer completely any and all questions appearing thereon relating to the requirements of this chapter. The board shall design, and, based upon the information furnished by the owner, issue a decal to the owner of every boat or vessel which is regularly moored, berthed, or docked within the geographic boundaries of those state waters now or hereafter designated as shellfish growing waters and which is equipped with a sewage retention device or which complies with 9 VAC 25-70-60 above. The board issued decal shall expire three years after the date of issuance or on the date of expiration of registration with the Commonwealth of Virginia, Commission of Game and Inland Fisheries, whichever event shall first occur. Application for subsequent decals shall be submitted prior to the expiration date of the last issued decal. The board issued decal will be evidence that any boat or vessel on which it is properly displayed is in compliance with the regulation. The board issued decal shall be prominently displayed on the exterior of the forward half of the boat or vessel.~~

**~~9 VAC 25-70-100. Notification.~~**

~~Every owner or operator of a marina or other docking facility within the state shall notify every boat patron using his facilities of this chapter.~~

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~~9 VAC 25-70-110. Effective date.~~

~~Under Virginia law this regulation is effective 30 days after filing with the Secretary of the Commonwealth. All requirements set forth in this chapter shall be complied with one year after the date of certification by the Administrator of the U.S. Environmental Protection Agency pursuant to §312(f)(3) of the Act that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available. Within 15 days of the date of said certification the board shall publish notification of said certification in at least one newspaper of general circulation in the localities affected.~~

~~9VAC25-70-120. Penalty.~~

~~Section 62.1-44.33(3) of the State Water Control Law provides that violation of this chapter shall, upon conviction, be a misdemeanor. Every law enforcement officer of this state and its subdivisions shall have the authority to enforce this chapter.~~

~~DOCUMENTS INCORPORATED BY REFERENCE~~

~~Standard methods for the Examination of Water and Wastewater, American Society for Testing Materials Methods. Filtering Materials for Sewage Treatment Plants, Manual of Engineering Practice No. 13, ASCE (1935). ASCE Manuals and Reports on Engineering Practice No. 37, WPCF Manual of Practice — No. 9.~~

~~APPENDIX A. NARRATIVE DESCRIPTION OF "SHELLFISH GROWING WATERS SUBJECT TO THE  
REGULATION NO. 5 NO-DISCHARGE STANDARD"~~

~~"Designated shellfish waters" are shown on exhibits 1-6 of the hearing file. In summary, these waters are:~~

~~Eastern Shore—All waters around the Eastern Shore, including Assateague, Chincoteague, Tangier, and Smith Islands, and the barrier islands.~~

~~Western Chesapeake Bay and Potomac River (Peninsula, Middle Peninsula, and Northern Neck areas)—The Chesapeake Bay and tidal portions of its tributaries from Old Point Comfort northerly to the Virginia-Maryland state line; the Chesapeake Bay and tidal tributaries into the bay in Virginia and tidal tributaries into the Potomac River in Virginia from the state line upstream to the Route 301 bridge.~~

~~Lynnhaven—Lynnhaven Bay south of the Lesner Bridge (Route 60), including Long Creek, Broad Bay, and Linkhorn Bay.~~

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~~James River—The James River and tidal portions of its tributaries (including the Nansemond, Pagan, and Warwick Rivers), beginning at a line extending from the western entrance to Boat Harbor across the northwest corner of the Craney Island disposal area and along the western boundary of the disposal area to the south shore, upstream to a line extending from Hog Point across the east bank of College Creek.~~

~~York River—The York River and tidal portions of its tributaries upstream to the Eltham Bridge (route 33) on the Pamunkey River and to the Lord Delaware Bridge (Route 33) on the Mattaponi River.~~

~~Rappahannock River—The Rappahannock River and tidal portions of its tributaries upstream to the Downing Bridge (Route 360) at Tappahannock.~~

~~9 VAC 25-730-10. — Definitions.~~

~~This regulation is established in accordance with § 62.1-44.33 of the Code of Virginia. For the purposes of this chapter, the following definitions will apply:~~

~~"Clean Water Act" means Chapter 26 of Title 33, USC and standards and regulations promulgated thereunder;~~

~~"Discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping;~~

~~"Sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes;~~

~~"State Water Control Law" means Chapter 3.1 of Title 62.1, Code of Virginia;~~

~~"Vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used on the waters of the state, including boats and houseboats, regardless of size, means of propulsion or place of registration.~~

~~9 VAC 25-730-20. — Establishment of Smith Mountain Lake No Discharge Zone.~~

~~In accordance with § 312(f)(3) of the Clean Water Act and subsequent Environmental Protection Agency (EPA) regulations at 40 CFR Part 140, Smith Mountain Lake, in the counties of Bedford, Franklin and~~

~~Pittsylvania, Virginia, has received an affirmative determination from the EPA that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available. Final notice of this determination was published in the **Federal Register** on October 16, 2000 (65 FR 61166, Oct. 16, 2000). A No Discharge Zone is hereby established for Smith Mountain Lake from Smith Mountain Dam (Gap of Smith Mountain) upstream to the 795.0 foot contour (normal pool elevation) in all tributaries, including waters to above the confluence with Back Creek in the Roanoke River arm, and to the Brooks Mill Bridge (Route 834) on the Blackwater River arm.~~

**9 VAC 25-730-30. — Prohibition of Boating Sewage Discharges.**

~~Pursuant to 9 VAC 25-730-20 and the requirements of federal regulations at 40 CFR Part 140.4(a), in accordance with § 62.1-44.33 of the State Water Control Law, and in response to General Assembly enactment appearing in **Acts of Assembly** (Chapter 247, April 7, 1998), all discharge of sewage, whether treated or not, from all vessels into the Smith Mountain Lake No Discharge Zone is prohibited.~~

**9 VAC 25-730-40. — Enforcement.**

~~§ 62.1-44.33 of the State Water Control Law provides that violation of this chapter shall, upon conviction, be a Class 1 misdemeanor. Every law enforcement officer of this state and its subdivisions shall have the authority to enforce this chapter.~~